UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/698,849	10/27/2000	David Carrel	004906.P005	5956

7590 06/29/2004	EXAMINER

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ART UNIT	PAPER NUMBER
2664	5

DATE MAILED: 06/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO 90C (Rev 10/03)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event; however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _27 October 2000_.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is

   closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-39_ is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-39_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a)☐ All   b)☐ Some * c)☐ None of:

   1.☐ Certified copies of the priority documents have been received.

   2.☐ Certified copies of the priority documents have been received in Application No. _____.

   3.☐ Copies of the certified copies of the priority documents have been received in this National Stage

      application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
   Paper No(s)/Mail Date _4_.

4) ☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2.   Claims 1-4, 6-8, 10-13, 15, 17,18, 20-23, 25-33, 35-39 rejected under 35 U.S.C. 102(e) as

being anticipated by Hebel (U.S. Patent No. 6,396,810).

Referring to claims 1 and 35, Hebel discloses in figures 1, 2 and in column 4, lines 47 to

column 5, lines 5 and in column 9, lines 53 to column 10, lines 26 of a machine readable medium

(computer) that provides instructions, which when executed by a set of processors 15, cause said

set of processors 15 to perform operations comprising: receiving a packet (text data information

based on user selecting one of circuits 22) on a circuit 22; and provisioning the circuit in

response to receiving the data packet (provisioning component 60 of figure 2 may provision a

communication path in response to a user selecting one of circuits 22 in the communication path

as disclosed in column 9, lines 53 to column 10, lines 26) as claim.

Referring to claims 2, 31 and 36, Hebel discloses in figure 1 wherein the circuit 22 is

associated with a listening circuit structure as disclosed in column 9, lines 21 to column 10, lines

26 such that each of circuits 22 listens to see if one of the communication circuit paths is selected

form the list before the packet (text data information) is received on the circuit, and the circuit

(selected circuit path) is disassociated from the listening circuit structure after the packet is

received on the circuit since in response to selecting an unassigned circuit 22 from the list,

provisioning component 60 assigns selected circuit 22 to the communication path as claims.

Referring to claims 3 and 37, Hebel discloses in column 4, lines 47 to column 5, lines 5

wherein provisioning the circuit comprises: identifying the circuit (computer 16 can assign

circuits 22 to the selected communication path); creating a provisioned circuit structure for the

circuit (network interface 13 communicates provisioning information that modifies a parameter,

setting, assignment variable, or other configuration information in the MIB to assign one or more

circuits 22 to a communication path); and associating the circuit to the provisioned circuit

structure (network interface 13 allows computer 16 to communicate provisioning information to

remotely configurable equipment in network 12) as claims.

Referring to claim 4, 7, 17, 27, 29, and 39, Hebel discloses in column 4, lines 47 to

column 5, lines 5 wherein creating the provisioned circuit structure comprises: retrieving a set of

parameters corresponding to the circuit from a database (the parameters are retrieved from

Management Information Base (MIB)); and populating an empty circuit structure with the set of

parameters (network interface 13 communicates provisioning information that modifies a

parameter, setting, assignment variable, or other configuration information in the MIB to assign

one or more circuits 22 to a communication path) as claims.

Referring to claim 6, Hebel discloses in figures 1, 2 and in column 4, lines 47 to column

5, lines 5 and in column 9, lines 53 to column 10, lines 26 of a machine readable medium

(computer 16) that provides instructions, which when executed by a set of processors 15, cause

said set of processors to perform operations comprising: configuring a set of circuit as listening

circuits (disclosed in column 3, lines 22-44 that circuits 22 may be configured as protocols that

support communication of information between two locations, thus, indicating that circuits are

initially listening to be provisioned); receiving a packet on one of the set of listening circuits

(text data information based on user selecting one of circuits 22); provisioning the one of the set

of listening circuits in response to receiving the packet (provisioning component 60 of figure 2

may provision a communication path in response to a user selecting one of circuits 22 in the

communication path as disclosed in column 9, lines 53 to column 10, lines 26); and processing a

set of subsequent packets received on the provisioned one (Provisioning component 60 reduces

the time and resources that telecommunication providers must devote to establishing a

communication path between two location 20 as a result the telecommunication providers can

provide faster service (subsequent packet transfers) to customers at a lower cost as disclosed in

column 10, lines 22-26) as claim.

Referring to claim 8, Hebel discloses in column 8, lines 37 to column 9, lines 18 of the

machine readable medium (computer 16) of claim 6, wherein configuring the set of circuits as

listening circuits comprises associating the set of listening circuits to a single circuit structure

(path analysis component 72 received target circuit information specifying two locations, in

response, identifies one or more communication paths that communicate information between

the specified location, the path may be one listening circuit 22 or a series of listening circuits 22),

this single circuit structure being a circuit structure having an indicator indicating the circuit

structure as a listening circuit structure (Path analysis component 72 generates communication

path such that the single circuit structure is a series of circuits that qualify as a communication

path if adjacent circuits 22 share a common code indicator) as claim.

Referring to claims 10 and 15, Hebel discloses in figures 1, 2 and in column 4, lines 47 to

column 5, lines 5 and in column 9, lines 53 to column 10, lines 26 a machine readable medium

(computer) that provides instructions, which when executed by a set of processors 15, cause said

set of processors to perform operations comprising: listening for a packet over a set of

configured circuits; receiving the packet (text data information based on user selecting one of

circuits 22) on one of the set of configured circuits 22; identifying the one of the set of

configured circuits (as discloses in column 4, lines 47 to column 5, lines 5 wherein provisioning

the circuit comprises: identifying the circuit (computer 16 can assign circuits 22 to the selected

communication path); signaling a routine that the packet has been detected on the one of the set

of configured circuits (column 9, lines 53 to column 10, lines 26); retrieving a set of parameters

for the one of the set of configured circuits from a database (as discloses in column 4, lines 47 to

column 5, lines 5 wherein the parameters are retrieved from Management Information Base

(MIB)); and populating an empty circuit structure with the set of parameters (network interface

13 communicates provisioning information that modifies a parameter, setting, assignment

variable, or other configuration information in the MIB to assign one or more circuits 22 to a

communication path); creating an empty circuit structure for the one of the set of configured

circuits (as disclosed in column 4, lines 47 to column 5, lines 5 where network interface 13

communicates provisioning information that modifies a parameter, setting, assignment variable,

or other configuration information in the MIB to assign one or more circuits 22 to a

communication path); and associating a set of subsequent packets received on the one of the set

of listening circuits with the provisioned circuit structure (as disclosed in column 4, lines 47 to

column 5, lines 5 where network interface 13 allows computer 16 to communicate provisioning

information to remotely configurable equipment in network 12) as claim.

Referring to claim 12, Hebel disclose in column 9, lines 53 to column 10, lines 26)\the

machine readable medium (computer) of claim 10, wherein signaling the routine comprises

passing the routine the listening circuit structure, the listening circuit structure identifying the

one of the set of configured circuits as claim.

Referring to claims 13, 18, 21, 26 and 32, Hebel discloses in column 4, lines 61 to

column 5, lines 51 further comprising a remote database to store parameters for provisioning the

one circuit as claim.

Referring to claim 20, Hebel discloses in figure 1, column 3, lines 10 to column 5, lines 5

of a network element (computer) comprising: a network card 13 (Network Interface) having a

port to couple a set of circuits 22 (via link 30); and a computer 16 coupled to the network card

13, the computer 16 to provision one circuit 22 of the set of circuits (any form of circuits 22 or

arrangement of circuits 22 that communicate between locations 20 in the network 12) in response

to receiving a packet (text data information based on user selecting one of circuits 22) on the one

circuit 22 (provisioning component 60 of figure 2 may provision a communication path in

response to a user selecting one of circuits 22 in the communication path as disclosed in column

9, lines 53 to column 10, lines 26) as claim.

Referring to claim 22, Hebel discloses the network element of claim 20, wherein the

computer 16 of figure 1 comprises: a database (MIB) to store a set of parameters as disclosed in

column 4, lines 47 to column 5, lines 5; a memory element (Memory 14 in figure 1) to store a

listening circuit structure (as disclosed in figures 1, column 3, lines 45 to column 4, lines 14 and

element 26) and a set of provisioned circuit structures (Network management system monitors

MIB and network interface 13 communicates provisioning information in the MIB to assign one

or more circuits 22 to a communication path as disclosed in column 4, lines 47 to column 5, lines

5); and an operating system (Network Interface 13 allows Computer 16 having an operating

system as disclosed in column 4, lines 47 to column 5, lines 5) to associate a set of the set of

circuits with the listening circuit structure (circuits 22), and to provision the one circuit

(provisioning component 60 as disclosed in column 9, lines 53 to column 10, lines 26 provisions

a communication path by assigning one or more circuits to the communication path) as claim.

Referring to claims 23 and 33, Hebel discloses in column 9, lines 53 to column 10, lines

26 wherein to provision the one circuit comprises: to identify the one circuit (by assigning one or

more circuits 22 to the communication path); to disassociate the one circuit from the listening

circuit structure (provisioning component 60 generates a list indicating whether each circuit 22 is

already in service, reserved for future service or available for assignment and if the one circuit is

now is service, it is disassociated from being an available listening circuit); to create an empty

circuit structure; to populate the empty circuit structure with the set of configuration parameters,

making the empty circuit structure a provisioned circuit structure (network interface 13

communicates provisioning information that modifies a parameter, setting, assignment variable,

or other configuration information in the MIB to assign one or more circuits 22 to a

communication path as disclosed in column 4, lines 47 to column 5, lines 5); and to associate the

one circuit to the provisioned circuit structure (as disclosed column 9, lines 53 to column 10,

lines 26) as claim.

Referring to claims 25 and 30, Hebel discloses in figure 1 and in column 4, lines 47 to

column 5, lines 5 of an apparatus (computer 16) comprising: a port (network interface 13) to

couple a set of circuits 22; a memory element 14 to store a set of circuit structures (as disclosed

in figure 1); a storage to store a set of parameters (MIB as disclosed in column 4 lines 47 to

column 5, lines 5); and a computer 16 to provision one circuit of the set of circuits in response to

a packet being received on the one circuit (provisioning component 60 of figure 2 may provision

a communication path in response to a user selecting one of circuits 22 (in response to a text data

information being received on a circuit) in the communication path as disclosed in column 9,

lines 53 to column 10, lines 26) as claim.

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

4.   Claims rejected under 35 U.S.C. 103(a) as being unpatentable over Hebel in view of

Radhakrishnan et al (U.S. Patent No. 6,049,526).

Referring to claim 5, 9, 14, 19, 24, 34, and 38, Hebel discloses in column 9,lines 53 to

column 10, lines 26 of provisioning component that provisions a communication path in

response to a user selecting one of circuits 22. Hebel, however, fails to disclose of

unprovisioning the circuit upon a subscriber-ending event. Radhakrishnan et al discloses in the

abstract, column 1, lines 47-65 and in column 9, lines 55 to column 10, lines 47 of a

provisioning/unprovisioning interface that enables provisioning and unprovisioning of interfaces

based on a traffic contract between the user and the network. The provisioning/unprovisioning

interface enables the network to offer QoS guarantee appropriate to the service class requested

by the user. Therefore, it would have been obvious to one of ordinary skill in the art to modify

the teachings of Hebel to include the teaching of an unprovisioning interface as taught by

Radhakrishnan et al in order to maximize the user's available bandwidth, thus providing QoS

guarantee appropriate to the service class requested by the user.

5.   Claim16 rejected under 35 U.S.C. 103(a) as being unpatentable over Hebel in view of

Moles et al (U.S. Patent No. 6,466,779).

        Referring to claim 16, Hebel fails to discloses that the machine readable medium of claim

15 further comprising discarding a set of packets transmitted over an unconfigured circuit, the

unconfigured circuit not being associated with the listening circuit structure. Moles et al teaches

of for use in a wireless network comprising base stations that communicated with mobile station,

preventing unprovisioned mobile stations for accessing an IP data network via the wireless

network. Moles et al discloses in the abstract and in column 11, lines 13-25, that the first

controller determines if the first mobile stations provisioned and transmits the first IP data packet

to the IP data network if the first mobile station is provisioned, if the first mobile station is

unprovisioned (unconfigured), the first controller transmits the first IP data packet to the IP data

network if the first destination IP address matches the first server IP address and prevents

transmission of the first IP data packet to the IP data network if the first destination IP address

does not match the first server IP address. Furthermore, as disclosed in column 11, lines 13-25,

if the destination IP address does not match an IP address in either the provisioned MS list 410 or

the unprovisioned MS list 420, IWF unit 150 may discard the IP data packet. Thus, indicating

that unprovisioned circuiting is not associated with the listening circuit structure. Therefore, it

would have been obvious to one of ordinary skills in the art to modify the teachings of Hebel to

include the teachings of Moles et al in order to prevent unauthorized persons from using an

unprovisioned circuit.

Any response to this action should be mailed to:

> Commissioner of Patents and Trademarks
> Washington, D.C. 20231

Or faxed to:

> (703)305-3988, (for formal communications intended for entry)

Or:

> (703)305-3988 (for informal or draft communications, please label "Proposed" or
> "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2021 Crystal
Drive, Arlington, VA., Sixth Floor (Receptionist).
Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Chirag G Shah whose telephone number is 703-305-5639. The

examiner can normally be reached on M-F 8:30 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Wellington Chin can be reached on 703-305-4366. The fax phone number for the

organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

cgs
June 22, 2004

Ajit Patel
Primary Examiner